



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

36 BAIL APPLICATION NO. 1256 OF 2025

Sachin Rustum Waghmare

VERSUS

The State of Maharashtra and others

...

Advocate for Applicant : Mr. Santosh C. Bhosle

APP for Respondents: Mr. P.P. Dawalkar

.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 22nd SEPTEMBER, 2025.

PER COURT :-

1. This is an application for granting of regular bail under section 483 Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023 in connection with crime No. 326 of 2024 registered with Loha police station, District Nanded for the offences punishable under Sections 376(2), 376(2)(H), 376(2)(I), 376(2)(n), 417, 323 and 506, 34 of I.P.C. and under Sections 4, 6, 17 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. The informant, who was 16 years old girl at the time of incident, has lodged a report alleging that she is residing near to the house of the applicant with her parents. In the year 2022, the applicant and his mother Vaijantabai Waghmare came to her. Both of them told her that the applicant is a big agriculturist and he is having

Disc Jockey (D.J.). He will maintain her and her parents properly. The informant said that she is a minor and she is not willing to marry with him. At that time, they both assured that they will take care of her minority and she only say 'yes' for marriage. The informant tried to convince the mother of the applicant that she did not wish to marry, however, she was frequently requested. At one point of time, the applicant came to her and said that her father is addicted to liquor. He also convinced her by saying that her parents cannot fetch money for paying dowry in the marriage. She insisted to come with him. She said the applicant not to insist her for marriage. The applicant brought her at Sahara Cricket Maidan. Thereafter, she was taken to Pune by a Luxury Bus. The applicant took her to the house of his friend and committed rape on her. The informant insisted the applicant to leave her with her parents but he continued committed her sexual harassment. The informant was conceived. Thereafter, the applicant took her to his village and kept her in a rented room. At that time, the applicant tried to terminate her pregnancy. The informant opposed it. At that time, the applicant said that he already had children and there was no need for her. The informant then questioned him as to why he had brought her forcibly if he already had a wife. When the informant said that she would go to the police station, the applicant threatened her and said that she could go to the police station and lodge the report. At that time, the applicant said

that not to go to the police station, took her back to Pune and thereafter he brought her to village Haldav, Tq. Loha, District Nanded and committed sexual assault continuously against her will. The informant delivered a baby girl. The applicant continued to provide her all household articles including vegetables etc. At that time, when the informant insisted to perform the marriage, the applicant said that she is silly and how can he marry. He has just enjoyed. He will not marry with her. He also beat and threatened her not to disclose the said incident to anybody otherwise he will eliminate her. Therefore, the informant lodged the report.

3. Learned advocate for the applicant submitted that it is a case of love affair. He has not used force. The applicant has no criminal antecedents. He has roots in the society. He will not flee away from trial. The trial will take a long period. It is also pointed out that birth certificate of the informant is not filed on record. He therefore, prayed to allow the application.

4. Learned A.P.P. for the respondent-State has strongly opposed the application and submitted that consent of the child is not the consent as per Section 90 of the I.P.C. i.e. corresponding Section 28 of Bhartiya Nyay Sanhita, 2023. The applicant is a married person having two children. He fraudulently deceived the informant and took

her at Pune. The informant begotten a baby girl and her life is spoiled by the applicant. He therefore, submitted to reject the application.

5. Perused the report as well as the other material placed on record. It appears that applicant is already married and has two children. The applicant deceived the informant and by taking disadvantage of her financial position, took her to Pune. Due to the act of the applicant, the informant begotten a baby girl and her life is spoiled. From the bonafide certificate, it shows that the date of birth of the informant is 26.8.2008 and the alleged incident took place firstly in the month of September 2022. Prior to lodging the report, at the time of the incident, and at all times preceding it, the informant was a child as defined under the provisions of the POCSO Act. Her consent is not a valid consent. Considering all these aspects, although the birth certificate of the informant has not been filed on record, this omission may be attributed to the investigating officer. However, this deficiency can be rectified if the trial court deems it necessary to summon the birth certificate and have it submitted during the proceedings. It appears that the applicant is involved in a serious offence and has exploited the childhood of the informant. Granting bail to the applicant at this stage would undermine the very purpose and spirit of the POCSO Act. The applicant may pressurize

the informant and tamper with the evidence. Considering the serious nature of the crime and the punishment prescribed for it i.e. not less than 20 years, the application deserves to be rejected. Hence, the following order.

O R D E R

Application is rejected.

(SANJAY A. DESHMUKH, J.)

rlj/